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C O N F I D E N T I A L SECTION 01 OF 02 PANAMA 000586

SIPDIS

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TAGS: MARR PREL PINS EWWT MOPS PM LABOR HUMAN RIGHTSPOLMIL
SUBJECT: PANAMA OFFERS BETTER HIGH-VALUE TRANSIT GUARANTEE

REF: A. 03 PANAMA 2201
B. 03 PANAMA 470

Classified By: DCM Christopher J. McMullen for reason 1.5 (d)

¶11. (C) SUMMARY: Panama's unilateral alternative to the USG's bilateral MOU proposal may be a better force protection guarantee for US military high-value transits (HVTs). After Embassy receives actual GOP language, probably in one to two months, we will analyze it and report our conclusions and recommendations for further action. END SUMMARY.

¶12. (C) After successfully implementing a US-Panama MOU for USG vessels visiting Panamanian ports (ref B), Embassy cleared with USG agencies a second force protection MOU to cover HVTs (ref A), to be signed under chief of mission (COM) authority. This MOU was presented on November 13, 2003, to the GOP's Public Security and National Defense Council (Consejo) Executive Secretary Ramiro Jarvis and Senior Advisor for Maritime Security Marta Achurra, who are coordinating the many GOP agencies with equities in this issue. (Note: Unlike the port visits MOU, for which Panama's Maritime Service (SMN) was the only GOP negotiator and is the sole point of contact for implementation, HVT force protection involves all GOP security-related agencies (Consejo, Police (PNP), Air Service (SAN), Maritime Service (SMN) and Institutional Protection Service (SPI)), as well as the Foreign Ministry (MFA) and the Canal Authority (ACP), which is not under the Consejo's chain of command). End note.)

¶13. (C) On January 27, EmbOffs met with GOP agency representatives led by Consejo's Achurra, who now says that a separate bilateral HVT MOU would be slow to conclude and more cumbersome to implement. Furthermore, the ACP is loath to be included in what would be a primarily security-specific document, wanting to avoid any charges of "mission creep." Instead, the GOP has countered with two unilateral documents, first floated at the January 27 meeting. Consejo plans to present to Embassy by mid-April (1) currently applicable ACP regulations, amended to include USG requirements that are directly under the ACP's operational control and (2) a new GOP interagency MOU, codifying relevant portions of Consejo's threat matrix security SOP. Alternatively, the latter may be codified via an executive decree, though the process would be lengthy and may not be completed by the September 1 change in government.

¶14. (C) The GOP has also raised other concerns regarding USG force protection requests. First, USG armed "escort units" are illegal under Panama's Constitution; only the PPF can provide security within Panamanian territory. If security procedures are guaranteed in a unilateral instrument, as the GOP proposes, determination of USG responsibilities is moot. Such units become "auxiliary vessels," which will arrive with the high value vessel and will be granted expeditious transit per the Neutrality Treaty. Auxiliary vessels have the right to transit with their personnel and weapons and have the international right of self-defense, which concurrently provides force protection for the high-value vessel. Second, the GOP noted that the level of force protection requested in our draft MOU is more than currently provided for US military HVTs, e.g., the USG would like to see water, land and air patrols commence earlier and have GOP quick reaction forces on alert. These services will increase the cost of a transit. (Note: Though not yet mentioned by the GOP, the PPF services may also need equipment, training and other assistance to be able to guarantee force protection. End note.) Embassy requested that the GOP inform the USG of the cost of each component of the force protection procedures to be considered along with other factors for our determination of services the USG needs. Third, the ACP noted that it has no authority to order another GOP agency to take action during an HVT; its jurisdiction over the transit does not extend to security for the transit. Embassy does not expect a military-like chain-of-command and understands competing jurisdictions, but does expect the ACP to take full responsibility for an HVT, coordinating with PPF services, possibly with the bureaucratic assistance of the Consejo. Such services are provided to all other ACP customers,

including high interest vessels that create similar security concerns.

15. (C) Embassy accepts the GOP's counterproposal to guarantee force protection for US military HVTs with two unilateral Panamanian commitments vice a bilateral MOU. In many respects, because our proposed MOU would have been negotiated under COM authority and therefore legally unenforceable, the counterproposal is a better guarantee. The ACP operational regulations can only be changed by its Board of Directors, a group concerned about its business relationship with valued clients and its global reputation as a premier service provider. These regulations, once approved, are unlikely to be altered capriciously. The GOP interagency security MOU will be based on Consejo threat analyses and planning, which has already been vetted and agreed upon. This MOU, once approved, is unlikely to be altered easily. Both documents will be given to Embassy for its concurrence. Embassy has been clear with the GOP about our principal goals in these negotiations: (1) The USG wants force protection procedures to be regularized and verifiable; (2) As many protections as possible requested in the original USG proposal should be provided; and (3) Embassy's Force Protection Officer, who is Embassy's Chief of the Office of Defense Cooperation (ODC) as US Defense Representative in-country, is to have one GOP point of contact to coordinate both operational and security issues of an HVT.

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